IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF MAY

TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 11082 of 2005

Between:

Tetali Jagannadha Rao, S/o Raja Murthy,
Resident of H.No. 27-10-10, Atta Rattaiah Street, Governorpet, Vijayawada - 2.

..... PETITIONER

AND

1 The Recovery Officer, Debts Recovery Tribunal, Isnar Khazana

Towers, 3rd Floor, 2nd Lane, Dwaraka Nagar, Visakhapatnam.
2 The Manager, Andhra Bank Main Branch, Vijayawada, Krishna

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate writ or order or orders and more particularly one in the nature of Writ of Mandamus declaring that the acts, deeds and things of the 1st respondent in issuing proclamation of sale dated 11-3-2005 in R.P. No. 135 of 2002 in O.A.No. 2107 of 1999, pending on the file of the 1st respondent, are illegal, arbitrary, against to the principles of natural justice, abusive of process of law and much against to the legal and fundamental rights guaranteed under the constitution of India and consequently set aside the order dated 11-3-2005 and 11-4-2005 in R.P.No. 135 of 2002 in O.A.No. 2107/99 of the 1st respondent, by allowing the petitioner to pay Rs. 20 lakhs to the 2nd respondent by way of ten installments and to pass such other order or orders as deem fit and proper in the circumstances of the case and in the

interest of justice as otherwise, the petitioner shall be put to grave and inexplicable hardship and injury.

Counsel for the Petitioner:MR.CH.VENKAT RAMAN

Counsel for the Respondents: MR.NUTY RAM MOHAN RAO

The Court made the following

O R D E R (Per the Hon'ble Sri Justice Goda Raghuram):

Petitioner's liability towards the debt due to the Andhra Bank has been determined in O.A.No.2107 of 1999. Consequent on which, sale of the house property of the petitioner was notified and proclaimed by the first respondent under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. Petitioner does not dispute his liability, but seeks the grace of being permitted to pay the amount in installments. In this behalf, he has made a representation on 21-03-2005 to the second respondent, which has not yet been considered by the second respondent is the complaint in this writ petition. The petitioner ought to have sought the facility of payment in installments before the Debts Recovery Tribunal in the substantive application O.A.No.2107 of 1999. No such installments could be granted by this Court in a writ petition challenging the proclamation of sale, which is a mere execution procedure, validly and legitimately pursued by the first respondent, pursuant to the award in O.A.No.2107 of 1999. However, since the petitioner had made an application to the second respondent-decree holder, the second respondent may consider the said application expeditiously and in any event, communicate its decision to the petitioner, within two weeks from the date of receipt of a copy of this order.

With the above observations, the writ petition is disposed of. No order as to costs.

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(Goda Raghuram,J)

10th May, 2005

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(Dr.G.Yethirajulu,J)

Note:Issue C.C in two days

B/o

vrn/rrb

To

1 The Recovery Officer, Debts Recovery Tribunal, Isnar Khazana

Towers, 3rd Floor, 2nd Lane, Dwaraka Nagar, Visakhapatnam.
2 The Manager, Andhra Bank Main Branch, Vijayawada, Krishna

District.

3 2 CD copies

4 1 CC to MR.VENKAT RAMAN

*Form-NIC-OGS/WP{**RLD**}*